



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Robert A. Brady
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Brady:

Thank you for your letter of June 17, 2011, to the U.S. Environmental Protection Agency (EPA) regarding the concerns of your constituent about the safety of abrasive materials derived from coal ash. I am pleased to provide you with an update to my letter to you from April 21, 2011.

As you know, representatives from the EPA Office of Resource Conservation and Recovery (ORCR) met with Mr. Paul Mellon of Novetas Solutions to discuss his concerns that the use of coal slag as a media for abrasive blasting grit is unsafe. Staff from ORCR anticipates that Mr. Mellon will receive the meeting recap he requested this week. I am also enclosing a copy of the meeting notes and attendee list from the May 23, 2011 meeting.

The agency agrees that the beneficial uses of coal combustion residuals (CCR) should be evaluated to ensure the protection of human health and the environment. To this end, the Agency is developing an evaluation process to determine if a beneficial use of CCR is safe, including use as a blasting grit media. At the meeting, Mr. Mellon provided several documents. The EPA will be placing those documents, the meeting notes, and attendee list in the CCR proposed rulemaking docket.

The EPA also received Novetas Solutions comments to the proposed rule, which are included in the CCR proposed rulemaking docket. While the agency understands that Mr. Mellon wants the EPA to respond directly to his concerns as soon as possible, in compliance with the federal rulemaking process under the Administration Procedures Act, the EPA needs to review and evaluate all of the comments submitted prior to the close of the comment period, and will make decisions on how best to proceed as part of the rulemaking process. Mr. Mellon also requested that the EPA's response to the Office of Inspector General's recent report on coal ash state that the EPA no longer considers coal slag abrasives as a beneficial use. The EPA did not include such a statement, but, as stated previously, EPA will be assessing Novetas Solutions' comments on the proposed rule, along with those of others, as part of our rulemaking process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, reading "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus
Assistant Administrator

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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APR 21 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Robert A. Brady
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Brady:

Thank you for your letter of March 21, 2011, to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, regarding the concerns of your constituent, Novetas Solutions, about the safety of abrasive materials derived from coal ash. I appreciate your interest in this matter and assure you that we are actively working to ensure the safe beneficial use of coal combustion residuals (CCR) and other industrial materials.

EPA has received Novetas Solutions comments which have been included in the CCR proposed rulemaking docket, and will evaluate those concerns as part of the rulemaking process. The public comment period for the proposed rulemaking closed on November 19, 2010. Because the public comment period is closed, EPA cannot consider additional comments on the proposed rulemaking, nor can we provide substantive comments regarding the on-going regulatory effort.

While additional comments cannot be factored into the proposed rulemaking, if Novetas Solutions would still like to meet with EPA, please encourage your constituent to contact Betsy Smidinger, Director of the Resource Conservation and Sustainability Division, who is overseeing the beneficial use safety assessment efforts. Novetas Solutions can email Pat McRae, Ms. Smidinger's office manager, at mcrae.thyral@epa.gov to schedule a meeting.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, which appears to read "Mathy Stanislaus".

Mathy Stanislaus
Assistant Administrator

Meeting Notes
Novetas Solutions
May 23, 2011
1:00 pm - 2:00 pm

EPA met with Paul Mellon of Novetas Solutions to listen to his concerns regarding the use of coal slags as an abrasive blasting agent. Attached is a listing of those in attendance plus the following materials provided by Novetas:

- Excerpts from a June 1994 EPA report "Surface Coating Operations at Shipbuilding and Ship Repair Facilities -- Background Information for Proposed Standards
- A March 21, 2011 letter from Representative Robert A. Brady to Administrator Jackson
- National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories, Summary of Minor Comments, June 13, 2008.
- Excerpts from the July 23, 2008 40 CFR Part 63 rule.
- The Novetas presentation to OMB on January 19, 2010.
- Excerpts from the C2P2 website (dated 1/18/2010).
- A flyer on the Comprehensive Procurement Guidelines for Blasting Grit.
- Paul Mellon's comments at the Arlington VA public hearing on coal ash.
- Excerpts from a draft CCR proposed rule dated 10/16/09.
- Excerpts from the June 21, 2010 proposed CCR rule.
- A May 4, 2010 EPA press announcement on plans to regulate coal ash.

Mr. Mellon made the following basic points:

- Mr. Mellon believes the evidence is clear that the use of coal slag as an abrasive blasting media poses significant risks and should not be supported as a beneficial use by EPA.
- Harsco has advertised their product as being supported by EPA, and as an environmentally acceptable solution based on erroneous information. Mr. Mellon requested that EPA take action to curb Harsco's claims and address the "benefit" they received by using the EPA logo.
- When EPA deals with the response to the OIG report, Mr. Mellon requested that EPA make a declaration that coal slag abrasives will no longer be listed in EPA's beneficial use program.

The key EPA responses were:

- EPA will fully assess the over 450,000 comments on the proposed rule as well as address the OIG report on the beneficial use of coal ash.
- EPA did direct Harsco to remove the EPA logo, and they complied with that request.
- A final statement on coal slag abrasives in the EPA response to the OIG report is very unlikely. It will take additional time for EPA to assess all the comments and conduct the appropriate environmental review.

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